



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0703; FRL-9919-52-Region 9]

Revisions to the California State Implementation Plan, Feather
River Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM), volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) from wood heating devices and open burning. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2014-0703, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to

consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

Table of Contents

I. The State's Submittal.

- A. What rules did the State submit?
- B. Are there other versions of these rules?
- C. What is the purpose of the submitted rules?

II. EPA's Evaluation and Action.

- A. How is EPA evaluating the rules?
- B. Do the rules meet the evaluation criteria?
- C. EPA recommendations to further improve the rules.
- D. Public comment and final action.

III. Statutory and Executive Order Reviews.

I. The State's Submittal.

- A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
FRAQMD	3.17 (except E.8 "...or other method approved by the Air Pollution Control Officer." and F.2.e)	Wood Heating Devices	10/05/09	07/25/14
FRAQMD	2.0	Open Burning	10/06/08	08/07/14

On September 11, 2014, EPA determined that the submittals for FRAQMD Rules 3.17 and 2.0 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

When Rule 3.17 was amended on October 5, 2009, the resolution did not specifically direct the District to submit it to EPA as a SIP revision. The District adopted Resolution 2014-02 on February 3, 2014 directing staff to send Rule 3.17 to EPA as a SIP revision with minor changes discussed in EPA's technical support document (TSD).

B. Are there other versions of these rules?

There is no previous version of Rule 3.17 in the California SIP.

In the late-1970s and 1980s, Sutter County and Yuba County adopted open burning rules which were approved by the EPA for inclusion into the California SIP for these counties. In March 2004, these rules were locally merged into Rule 2.0, to apply District-wide and amended again locally in October 2008. On August 7, 2014, CARB submitted Rule 2.0 to the EPA for inclusion into the California SIP, specifying this rule would supersede the Sutter County and Yuba County rules currently in the California SIP as listed below.

Table 2 - Rules to be Superseded¹

Sutter County

Rule Number	Title	Approval Date	Citation
2.1	Exceptions to Rule 2.0	04/12/1982	47 FR 15585
2.2	APCO May Issue Burn Permit	04/12/1982	47 FR 15585
2.3	Burning on "No-Burn" Days	04/12/1982	47 FR 15585
2.4	Exception to Rule 2.3	04/12/1982	47 FR 15585
2.5	Permit Regulations	02/03/1987	52 FR 3226
2.6	Burning Hours	04/12/1982	47 FR 15585
2.7	Agricultural Burning Requirement	04/12/1982	47 FR 15585
2.8	Range Improvement and Property Being Developed for Commercial or Residential Purposes	04/12/1982	47 FR 15585
2.82	Open Burning of Waste Wood on Property Where Grown	01/26/1982	47 FR 3550
2.9	Prohibited Burning	04/12/1982	47 FR 15585
2.10	Exceptions	04/12/1982	47 FR 15585
2.11	Fire Prevention	04/12/1982	47 FR 15585
2.12	Designated Agencies	04/12/1982	47/FR 15585
2.14	Reduction of Odorous Matter	09/22/1972	37 FR 19812
2.15	Orchard and Citrus Heaters	04/12/1982	47 FR 15585
2.16	Cost of Putting Out a Fire	04/12/1982	47 FR 15585

¹ In some places the rule numbers contain an addition "0" (e.g. 2.01, 2.02, etc.). However, the original rules, as approved into the California SIP, were numbered as shown in Table 2.

Yuba County

Rule Number	Title	Approval Date	Citation
2.0	Open Fires	04/17/1987	52 FR 12523
2.1	Exceptions to Rule 2.0	04/17/1987	52 FR 12523
2.2	APCO May Issue Burn Permit	01/26/1982	47 FR 3550
2.3	Burning on "No Burn" Days	04/17/1987	52 FR 12523
2.4	Exceptions to Rule 2.3	01/26/1982 04/12/1982	47 FR 3550 47 FR 15585
2.5	Permit Regulations	04/17/1987	52 FR 12523
2.6	Burning Hours	04/17/1987	52 FR 12523
2.7	Agricultural Burning Requirements	04/17/1987	52 FR 12523
2.8	Forest Management Range Improvement and Property Being Developed for Commercial or Residential Purposes	01/26/1982	47 FR 3550
2.9	Prohibited Burning	04/17/1987	52 FR 12523
2.10	Exceptions	01/26/1982	47 FR 3550
2.11	Fire Prevention	04/17/1987	52 FR 12523
2.12	Designated Agencies	01/26/1982	47 FR 3550
2.14	Pressure Tank	09/22/1972	37 FR 19812
2.15	Orchard and Citrus Heaters	01/26/1982	47 FR 3550
2.16	Cost of Putting Out a Fire	04/17/1987	52 FR 12523

C. What is the purpose of the submitted rules?

Open burning emits PM, including particulate matter of ten

microns or less (PM₁₀) and particulate matter of 2.5 microns or less (PM_{2.5}), directly, as well as volatile organic compounds (VOCs) and oxides of nitrogen (NO_x), which are precursors to ozone and PM_{2.5}. PM and ozone contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control direct PM, VOC and NO_x emissions.

Rule 3.17 reduces inhalable PM emissions from residential wood heating devices, to achieve the same emission limits as other wood appliances, and to increase public awareness in Yuba and Sutter Counties. The burning of unseasoned wood is prohibited and any new or used wood heating device must be an EPA certified wood heating device.

Rule 2.0 minimizes the impacts of smoke and other air pollutants generated by open burning and assures that it is managed consistent with state and federal law. The TSDs have more information about these rules.

II. EPA's Evaluation and Action.

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section

110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM10 and PM2.5 nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM10 and PM2.5 nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). In addition, CAA section 172(c)(1) requires nonattainment areas to implement all reasonably available control measures (RACM) as expeditiously as practicable.

FRAQMD is currently designated attainment for PM10. Therefore, Rule 2.0, Open Burning, and Rule 3.17, Wood Heating Devices, are not required to implement RACM or BACM with respect to PM-10.

The Yuba City-Marysville area, which is under FRAQMD jurisdiction, is designated nonattainment for the 2006 24-hour PM2.5 National Ambient Air Quality Standard (NAAQS). However, on January 10, 2013 (78 FR 2211), EPA issued a determination that the area had attained the 2006 24-hour PM2.5 standard based on complete, quality-assured, and certified ambient air monitoring data for the 2009-2011 monitoring period. Under EPA's Clean Data Policy and the regulations that embody it, 40 CFR

51.1004(c) (for PM_{2.5}), an EPA rulemaking determination that an area is attaining the relevant standard suspends the area's obligations to submit RACM for as long as the area continues to attain. As a result, we are not evaluating Rule 2.0 for compliance with RACM requirements for PM_{2.5} at this time. In addition, on May 23, 2013, CARB requested that EPA redesignate the Yuba City-Marysville PM_{2.5} nonattainment area to attainment for the 2006 24-hour PM_{2.5} NAAQS. If the Yuba City-Marysville area is redesignated to attainment, RACM requirements for PM_{2.5} will no longer apply.

FRAQMD regulates a portion of the Sacramento Metro ozone nonattainment area, which is classified as Severe-15 under the 1997 and 2008 NAAQS for ozone (40 CFR 81.305). Therefore, FRAQMD must implement RACM for open burning and wood heating devices if those measures will advance attainment of ozone NAAQS, when considered collectively with other reasonable measures. Additional control measures may be required pursuant to CAA § 172(c)(1) if both: (1) additional measures are reasonably available; and (2) these additional reasonably available measures will advance attainment in the area when considered collectively. EPA acts on the State's RACM demonstrations separately based on an evaluation of the control measures submitted as a whole and their overall potential to advance the

applicable attainment date.

Guidance and policy documents that we use to evaluate enforceability include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice," (Blue Book), notice of availability published in the May 25, 1988 Federal Register.
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant

policy and guidance regarding enforceability, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules.

The TSDs describes additional rule revisions that we recommend for the next time the local agency modifies Rule 2.0, Opening Burning, and Rule 3.17, Wood Heating Devices.

D. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [Insert date 30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the

Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 16, 2014.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c) (447) and (c) (448) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(447) New and amended regulations were submitted on July 25, 2014, by the Governor's designee.

(i) Incorporation by Reference.

(A) Feather River Air Quality Management District.

(1) Rule 3.17 (except specific provisions of subsections E.8, F.2 and F.4), "Wood Heating Devices," amended on October 5, 2009.

(448) New and amended regulations were submitted on August 15, 2014, by the Governor's designee.

(i) Incorporation by Reference.

(A) Feather River Air Quality Management District.

(1) Rule 2.0, "Open Burning," amended on October 6, 2008.

[FR Doc. 2014-29285 Filed 12/15/2014 at 8:45 am; Publication
Date: 12/16/2014]